



## *Community Development Department*

### **BISMARCK BOARD OF ADJUSTMENT MEETING AGENDA APRIL 5, 2012**

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Tom Baker Meeting Room	4:00 p.m.	City-County Office Building
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#### **MINUTES**

1. **Minutes.** Consider approval of the minutes of the August 4, 2011 meeting.

#### **REQUESTS**

2. **6714 Northstar Acres Road (Montie Galt)** Request for a variance to exceed the maximum allowable accessory building area for the purpose of constructing a 36' x 60' storage building.
3. **924 & 928 Baffin Loop (Kevin Fischer)** Request for a variance to reduce the front yard setback from 25-feet to 20-feet for the purpose of constructing a twin home(s).

#### **OTHER BUSINESS**

4. **Discussion** regarding accessory building language in the Ordinance.
5. **Discussion** regarding Board of Adjustment fees increase.
6. **Discussion** regarding administrative variances.

#### **ADJOURNMENT**

7. **Adjourn.** The next regular meeting date is scheduled for May 3, 2012.



**BISMARCK BOARD OF ADJUSTMENT  
MEETING MINUTES  
AUGUST 4, 2011**

The Bismarck Board of Adjustment met on August 4, 2011 at 4:00 p.m. in the Tom Baker Meeting Room in the City-County Office Building, 221 North 5<sup>th</sup> Street. Board members present were Blair Ihmels, Dean Conrad, Ken Heier, Jennifer Clark, and Jeff Ubl.

Member absent was Michael Marback.

Staff members present were Ray Ziegler (Building Official), Gregg Greenquist (Planner), and Kim Riepl (Office Assistant).

Others present were Dan Lacher, Bismarck.

**MINUTES**

Acting Chair Marback asked for consideration of the July 7, 2011 minutes.

**MOTION:** A motion was made by Mr. Ubl and seconded by Mr. Conrad to approve the minutes of the July 7, 2011, meeting as presented. With all members voting in favor, the minutes were approved.

**VARIANCE – DAN LACHER – 2610 SUNNY VIEW PLACE**

Mr. Ihmels stated the applicant was requesting a variance to reduce the front yard setback from 40-feet to 26-feet for the purpose of constructing a detached garage. Mr. Lacher indicated specific areas on a diagram and aerial photo of his property and explained that due to the location of his drain field and tree rows, along with a ditch that floods each spring creating overland flooding on his lot, the only good alternative placement for a detached garage is on the southeast portion of his property. He indicated an area to the west which he had previously elevated and installed a culvert to avert the overland flooding that occurs. He showed the Board the areas on his lot that are typically prone to spring run-off and flooding, stating he had an extra 25 loads of fill brought in when the house was first built.

Mr. Conrad noted that Mr. Lacher was aware of the water problems when he built the house and Mr. Lacher confirmed that to be true.

Mr. Lacher continued by explaining access issues to certain areas due to snowdrifts caused by the trees, along with the problem of where to be able to push the snow for removal.

Mr. Ihmels asked staff if it would be possible for Mr. Lacher to install an approach (off 26<sup>th</sup> Street) and Mr. Greenquist stated that 26<sup>th</sup> Street, being a section line and therefore an arterial road, is under the purview of the County. He further explained that the County does not like to add approaches to arterial roadways, adding it is especially difficult to obtain an approach permit for a second approach to a property on such a roadway.

Mr. Conrad referenced the written comment received from a neighbor stating no objection to Mr. Lacher's variance request. He then detailed their situation of having an accessory building behind their house, using a driving path beside the house to access it. Mr.

Conrad asked Mr. Lacher if that would be feasible for him and Mr. Lacher replied the snow gets too deep and he has underground sprinklers on the west side which he wouldn't want to drive on.

Mr. Ihmels asked staff to provide information on the required front yard setback of 40-feet. Mr. Greenquist replied that to compare it to front yard setbacks on city lots, which are 25-feet, and the lots that are smaller with the buildings placed closer to the street, the rural setback requirement of 40-feet is proportional. The rural lots are larger, and right-of-way requirements for future expansion of roadways can come into play. Mr. Ziegler added that the 40-feet allows for a more rural setting by keeping the buildings further apart. Mr. Greenquist noted that other counties have similar setbacks, and that Bismarck's ordinance is really no more restrictive than anywhere else that he is aware of.

Mr. Ihmels asked Mr. Lacher where his utility easement is located and he replied his power comes in from the utility pole on 26<sup>th</sup> Street, in the back of his house, and his cable and MDU are in the front.

Mr. Ubl inquired as to the minimum distance required between a house and detached garage, to which Mr. Ziegler responded distance is not really an issue, as options exist to protect between two different occupancy types, such as a firewall, if the garage, which is a different occupancy rating (than a house), is placed right next to the house.

Mr. Ubl voiced a concern with how much planning went into the original development of the property especially thought given to the possibility of putting a garage in sometime in the future. Although there are many factors that affect where a garage can be placed, Mr. Ubl stated his opinion that at some time, those factors could have been controlled, for instance, the location of the septic field. He concluded by saying for these reasons, it's hard for him to lock in on a specific hardship, especially as this seems to come up a lot (with rural properties). He then asked Mr. Lacher if there was a minimum distance he was trying to maintain between the house and garage for snow removal. Mr. Lacher indicated areas of heavy snow accumulation and said he runs out of room to push the snow.

The following findings were provided:

1. The need for a variance may be based on special circumstances or conditions unique to the specific parcel of land involved that are not generally applicable to other properties in this area and within the RR zoning classification.
2. The hardship is not caused by the provisions of the Zoning Ordinance.
3. Strict application of the provisions of the Zoning Ordinance would not deprive the property owner of the reasonable use of the property.
4. The requested variance is the minimum variance that will accomplish the relief sought by the applicant.
5. The granting of the variance is not in harmony with the general purposes and intent of the Zoning Ordinance; however, it is doubtful that it would be injurious to the neighborhood or otherwise detrimental to the public welfare.

**MOTION:** A motion was made by Ms. Clark to approve the request for the variance to reduce the front yard setback from 40-feet to 26-feet, with additional discussion. The motion was seconded by Mr. Ubl, and discussion followed.

*Discussion: Mr. Heier stated he was sympathetic to Mr. Lacher's situation, but agreed with Mr. Ubl's observation that these accessory building requests are made of the Board by owners of established properties with established landscaping quite regularly. He stated if there is a need to change the zoning ordinance, then that is what should be done. He asked staff how likely it might be to reduce the setback requirement for accessory buildings on rural lots, to which Mr. Greenquist replied it may be possible if a strong argument was presented. He outlined the process which begins with the proposal of the amendment going before the City Planning Commission and then moving to the Bismarck Board of City Commissioners for final approval.*

*Lengthy discussion ensued regarding placement options on the property for the detached garage, and concluded with a consensus of the Board members that the only thing somewhat unique to this situation is that 26<sup>th</sup> Street is an arterial roadway. Mr. Heier posed the question of Mr. Lacher attempting first to obtain an approach permit to gain access from 26<sup>th</sup> Street, to which Mr. Lacher replied he did not wish to do so as the road is too high and it would require a very big culvert to handle the water that flows through that ditch. Upon further discussion, it was agreed by staff and Board members that access from 26<sup>th</sup> Street would ultimately result in a negative impact on Mr. Lacher's property due to water issues.*

**CALL FOR VOTE:** Acting Chair Ihmels called for a vote on the motion made by Ms. Clark and seconded by Mr. Ubl to approve the request for the variance to reduce the front yard setback from 40-feet to 26-feet. With Mr. Heier and Mr. Ubl voting opposed and Ms. Clark, Mr. Conrad, and Mr. Ihmels voting in favor, the motion to approve the request for the variance to reduce the front yard setback from 40-feet to 26-feet was denied.

## **OTHER BUSINESS**

Mr. Greenquist provided an update on the progress of the ordinance re-write for accessory building sizes. He stated there had been no significant changes to date, but that he will provide updates as changes occur.

Mr. Ihmels referred to a variance request which had previously come before the Board and was initially denied, and then, at the request of the applicant, reconsidered. At the time of reconsideration, because the applicant was not in attendance, the Board took no action. Mr. Ihmels questioned the final decision in such a situation, wondering if the original denial of the request retained validity or if the item was still open. Mr. Greenquist responded saying this was a very unique situation, and he would consult with staff to ascertain the correct response to Mr. Ihmels' inquiry.

## **ADJOURNMENT**

There being no further business, Acting Chair Ihmels declared the meeting of the Bismarck Board of Adjustment adjourned to meet again on September 1, 2011.

Respectfully Submitted,

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Kim Riepl  
Recording Secretary

APPROVED:

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Michael Marback, Chair

**BISMARCK-BURLEIGH COMMUNITY DEVELOPMENT DEPARTMENT  
STAFF REPORT**

**BACKGROUND:**

**Title:**

6714 North Start Acres Road – increased accessory building size (1800sf to 2160sf)  
(Lot C of Lots 10-11, North Star Acres)

**Status:**

Board of Adjustment

**Date:**

April 5, 2012

**Owner(s):**

Montie and Claudine Galt

**Reason for Request:**

Increase the allowable area of an accessory building to allow the construction of a 36' x 60' (2160sf) building for storage of vehicles and equipment.

**Location:**

Along the east side of North Star Acres Road south of 71<sup>st</sup> Avenue NE and east of US Hwy 83.

**Applicable Provision(s) of Zoning Ordinance:**

14-03-06 (1)(b)(4). Incidental Uses/Accessory Uses and Buildings. All allowable accessory buildings to a residence shall be limited to a maximum of 1800 square feet for lots between 85,000 square feet and 4 acres.

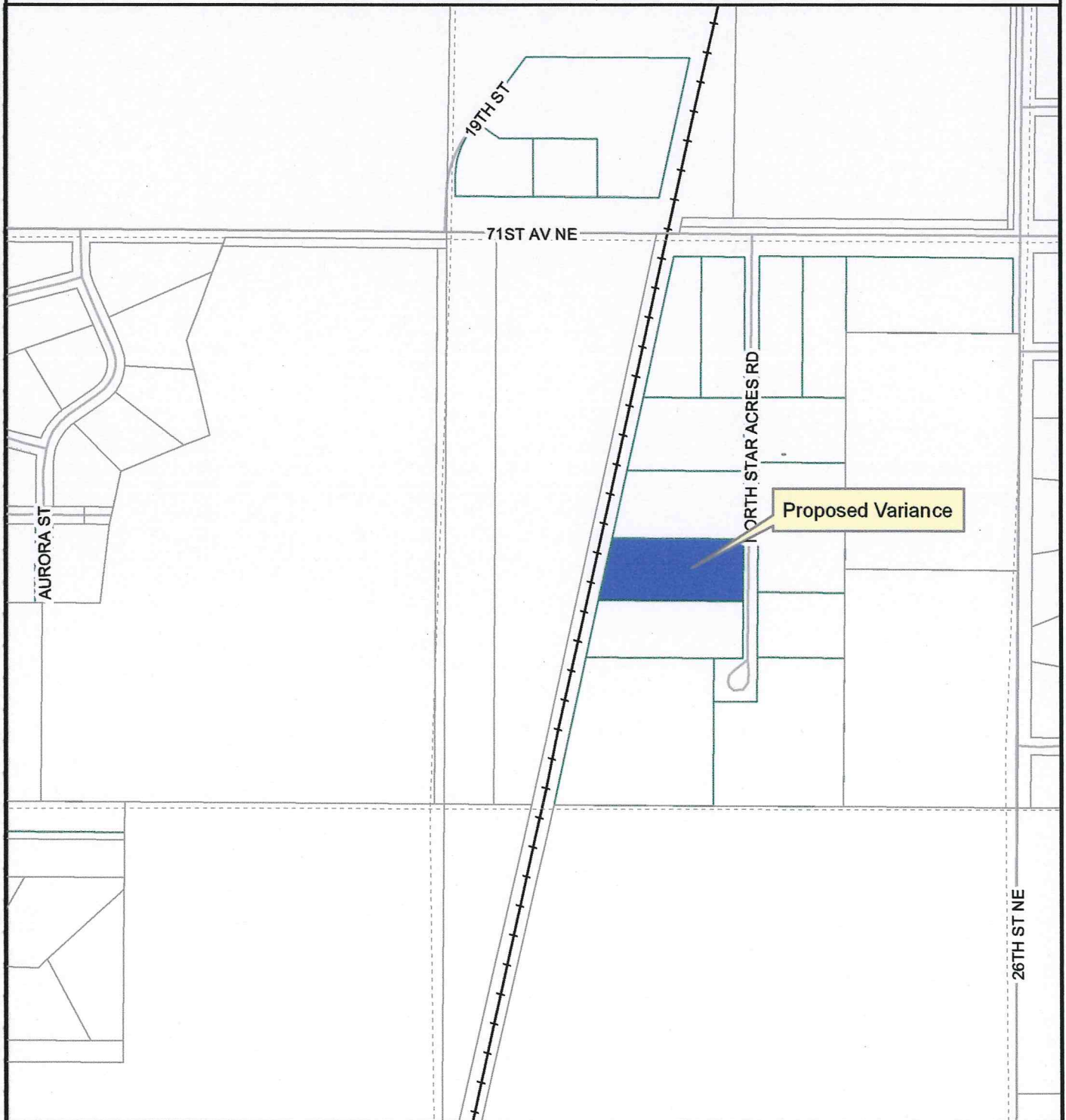
**FINDINGS:**

1. The need for a variance is not based on special circumstances or conditions unique to the specific parcel of land involved that are not generally applicable to other properties in this area and within the RR zoning classification.
2. The hardship is not caused by the provisions of the Zoning Ordinance.
3. Strict application of the provisions of the Zoning Ordinance would not deprive the property owner of the reasonable use of the property.
4. The requested variance is the minimum variance that will accomplish the relief sought by the applicant.
5. The granting of the variance is not in harmony with the general purposes and intent of the Zoning Ordinance; however, it is doubtful that it would be injurious to the neighborhood or otherwise detrimental to the public welfare.

**RECOMMENDATION:**

Staff recommends reviewing the above findings and modifying them as necessary to support the decision of the Board. If granted, the variance must be put to use within 24 months or it shall lapse and the landowner must reapply.

**Proposed Variance**  
**Exceed Maximum Accessory Building Area**  
**Lot 11, Block 1, North Star Acres**



DISCLAIMER: This map is for representation use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.  
Map was Updated/Created: March 22, 2012 (klr)

Source: City of Bismarck

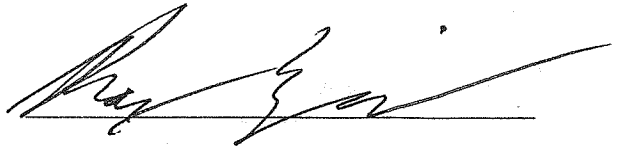


0 550 1,100 Feet

7. Your application has been reviewed. It has been:

☐ Approved

Reviewed By:



☒ Denied

Date:

2-14-2012

8. Reason for denial:

exceeds the allowable  
sq. ft. by current ordinance

Please make the corrections and resubmit the application

Please note that an application for a permit is deemed to be abandoned 180 days after the date of filing, unless the application has been pursued in good faith or a permit has been issued. Therefore, supply us with the required plans at your earliest convenience.



RECEIVED

MAR 16 2012

**Bismarck**

CITY OF BISMARCK  
 BUILDING DIVISION  
 221 N 5TH ST  
 BISMARCK, ND 58506-5503  
 PH (701) 355-1465

## CITY OF BISMARCK / ETA &amp; BURLEIGH COUNTY

RECEIVED DATE: 2-10-2012

## CONTACT INFORMATION:

1. Name:

MONTIE GALT

2. Phone Number: \_\_\_\_\_

3. Property Address:

6714 NORTHSTAR ACRES RD

4. Location of Property:



City of Bismarck



ETA

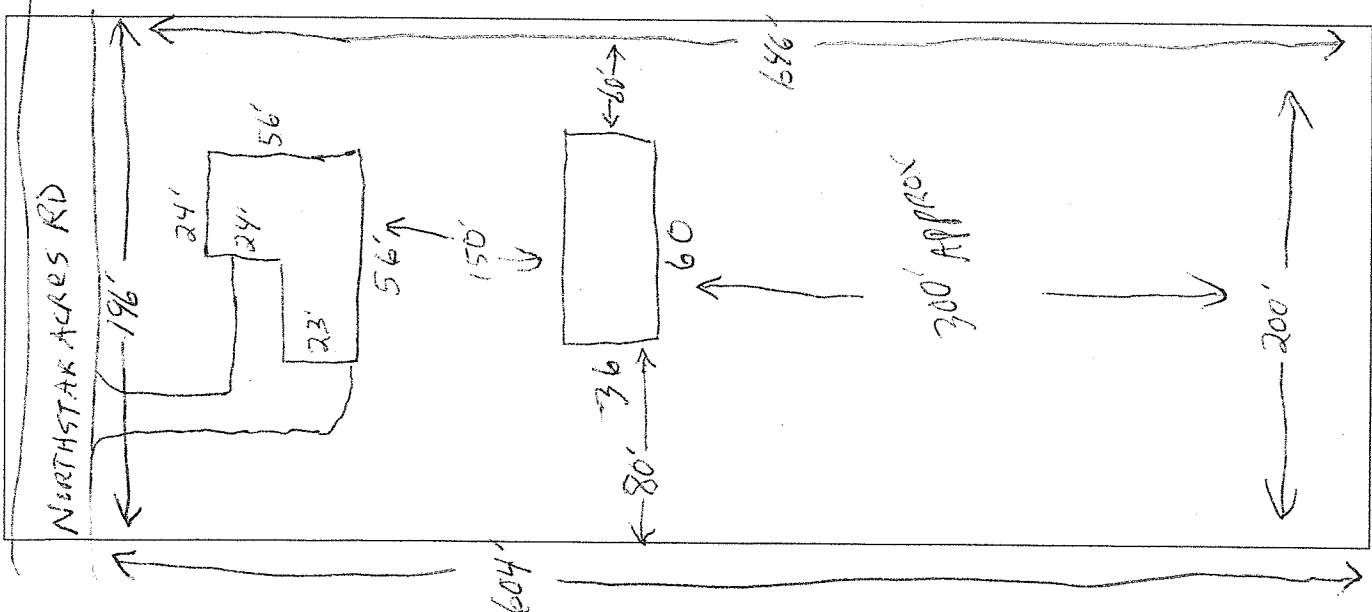


Burleigh County

5 Reason for variance

Need A Big enough BUILDING TO STORE  
ALL OUR equipment AND TOOLS INSIDE, FOR SECURITY OF  
OF OUR equipment & TOOLS.

6. In the space below, please draw your lot, all existing buildings located on your lot and the proposed structure. Include dimensions of buildings, distance between buildings and your property lines.





NORTH STAR ACRES RD



**CITY OF BISMARCK/ETA & BURLEIGH COUNTY  
APPLICATION FOR APPROVAL OF A VARIANCE  
WRITTEN STATEMENT**

1. Property Address or Legal Description: 6714 N. Star Acres Rd. Bis. ND
2. Location of Property: ☐ City of Bismarck ☒ ETA ☐ Burleigh County
3. Type of Variance Requested:
4. Applicable Zoning Ordinance Chapter/Section:
5. Describe how the strict application of the requirements of the Zoning Ordinance would limit the use of the property. (Only limitations due to physical or topographic features - such as an irregularly shaped, narrow, shallow or steep lot or other exceptional physical or topographic condition - that are unique characteristics and not applicable to other properties in the neighborhood are eligible for a variance. Variances cannot be granted on the basis of economic hardship or inconvenience.)

Size of building allowed according to zoning ordinance is not large enough to store all items - pick-ups, snowmobiles & trailer, four wheeler, motorcycle, trailers, riding lawn mowers, push mower, lawn mower attachments etc.

6. Describe how these limitations would deprive you of reasonable use of the land or building involved and result in unnecessary hardship.

Size of building according to the zoning ordinance is not large enough to store all items to keep items safe from: theft, vandalism, sun damage (outside elements). Also to keep the appearance of a clean lot.

7. Describe how the variance requested is the minimum variance necessary to allow reasonable use of the property.

With the additional square footage requested we would be able to store all items properly out of the elements and keep the area looking clean and orderly and secure.

**BISMARCK-BURLEIGH COMMUNITY DEVELOPMENT DEPARTMENT  
STAFF REPORT**

**BACKGROUND:**

**Title:**

924/928 Baffin Loop – reduced front yard setback (25 feet to 20 feet)  
(Lots 61 and 62, Block 2, Sonnet Heights Subdivision First Replat)

**Status:**

Board of Adjustment

**Date:**

April 5, 2012

**Owner(s):**

Kevin Fischer

**Reason for Request:**

Reduce the front yard setback from 25 feet to 20 feet for the construction of a twinhome on a private roadway easement (Baffin Loop).

**Location:**

Along Baffin Loop north of LaSalle Avenue and west of Ottawa Street.

**Applicable Provision(s) of Zoning Ordinance:**

14-04-06 (7). R10 District Regulations/Front Yard. Each lot shall have a front yard of not less than 25 feet in depth.

14-02-03. Definitions/Yard-Front. A yard extending across the full width of the lot and lying between the front line of the lot and the nearest line of the principal building. When a private roadway easement or access easement is located along a front lot line, the front yard width shall be measured from the interior edge of said easement rather than the actual lot line.

**FINDINGS:**

1. The need for a variance is not based on special circumstances or conditions unique to the specific parcel of land involved that are not generally applicable to other properties in this area and within the R10 zoning classification.
2. The hardship is not caused by the provisions of the Zoning Ordinance.
3. Strict application of the provisions of the Zoning Ordinance would not deprive the property owner of the reasonable use of the property.
4. The requested variance is the minimum variance that will accomplish the relief sought by the applicant.
5. The granting of the variance is not in harmony with the general purposes and intent of the Zoning Ordinance; however, it is doubtful that it would be injurious to the neighborhood or otherwise detrimental to the public welfare.

**RECOMMENDATION:**

Staff recommends reviewing the above findings and modifying them as necessary to support the decision of the Board. If granted, the variance must be put to use within 24 months or it shall lapse and the landowner must reapply.

# **Proposed Variance** **Reduce Front Yard Setback** **Lots 61 & 62, Block 2, Sonnet Heights First Replat**



DISCLAIMER: This map is for representation use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.  
 Map was Updated/Created: March 2, 2012 (klee)

Source: City of Bismarck



0 285 570 Feet



7. Your application has been reviewed. It has been:

☐ Approved

Reviewed By:

Ray Gu

☒ Denied

Date:

3-13-2012

8. Reason for denial:

Front yard setback is 25'  
the owner would like it reduced

Please make the corrections and resubmit the application

Please note that an application for a permit is deemed to be abandoned 180 days after the date of filing, unless the application has been pursued in good faith or a permit has been issued. Therefore, supply us with the required plans at your earliest convenience.

RECEIVED

MAR 16 2012

BIF010

**Bismarck**

CITY OF BISMARCK  
BUILDING DIVISION  
221 N 5TH ST  
BISMARCK, ND 58506-5503  
PH (701) 355-1465

**CITY OF BISMARCK / ETA & BURLEIGH COUNTY**

RECEIVED DATE: \_\_\_\_\_

**CONTACT INFORMATION:**

1. Name:

Kevin Fischer

2. Phone Number:

3. Property Address:

924 & 928 Baffin LP

4. Location of Property:



City of Bismarck



ETA



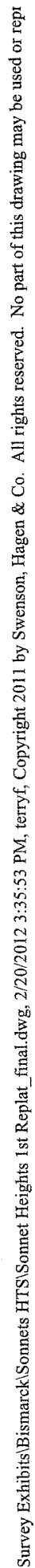
Burleigh Country

5. Reason for variance

To decrease the required  
front yard setback

6. In the space below, please draw your lot, all existing buildings located on your lot and the proposed structure. Include dimensions of buildings, distance between buildings and your property lines.

See attached











SOURIS ST

LASALLE DR

BAFFIN LP

WINDSOR ST



RECEIVED

MAR 21 2012

RECEIVED

MAR 21 2012

To Whom It may Concern

Variation Community

I am Requesting a lesser <sup>Front</sup> Set Back,  
Because the ~~lot~~ lots have a water passageway  
in Back, which I can not put a deep ~~front~~  
floor Plan. I am look at a depth of 40 ft  
or less.

I am Requesting a 20-22 ft Set Back  
on a private Street a 928-924 Boffin Ln.

Kevin Fidler